

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

THEODORE SCOTT, JR.

:

Plaintiff

:

v

:

Civil Action No. CCB-05-1896

BY _____ DEPUTY

J. FREDERICK MOTZ

:

Defendant

:

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MEMORANDUM

The above-captioned Complaint was filed on July 11, 2005. Because he appears to be indigent, Plaintiff's Motion to Proceed In Forma Pauperis shall be granted. For the reasons that follow the Complaint must be dismissed.

Under the provisions of 28 U.S.C. §1915(e) "the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . is frivolous or malicious; . . . [or] fails to state a claim on which relief may be granted." Plaintiff appears to seek a civil judgment against Judge Motz for his alleged participation in a violation of probation case that occurred in 2003. The Complaint states no readily discernible cause of action and seeks judgment against a judge for actions taken in his capacity as a judge. Even if the allegations could be clarified through amendment, the claim is clearly barred by the doctrine of judicial immunity and must be dismissed. *See Forrester v. White*, 484 U.S. 219, 226– 27 (1988) ("If judges were personally liable for erroneous decisions, the resulting avalanche of suits, most of them frivolous but vexatious, would provide powerful incentives for judges to avoid rendering decisions likely to provoke such suits.").

Plaintiff is reminded that under 28 U.S.C. §1915(g) he will not be granted *in forma*

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pauperis status if he has "on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury". The instant case will be the first filed by Plaintiff that has been dismissed as frivolous. A separate order follows.

8/01/05
Date

/s/ CCB
Catherine C. Blake
United States District Judge